

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1141

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-30-2-1, AS AMENDED BY HEA 1398-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A county court is established in the following counties:

- (1) Floyd County.
- (2) Madison County.
- ~~(3) Montgomery County.~~

(b) However, a county court listed in subsection (a) is abolished if:

- (1) IC 33-33 provides a small claims docket of the circuit court;
- (2) IC 33-33 provides a small claims docket of the superior court;
- or
- (3) IC 33-34 provides a small claims court;

for the county in which the county court was established.

SECTION 2. IC 33-33-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the:

- (1) Dearborn superior court No. 1; and**
- (2) Dearborn superior court No. 2.**

(b) ~~The Each~~ Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of ~~the each~~ superior court.

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SECTION 3. IC 33-33-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** Dearborn superior court has one (1) judge who shall hold sessions in:

- (1) the Dearborn County courthouse in Lawrenceburg; or ~~in~~
- (2) other places in the county as the Dearborn County executive may provide.

SECTION 4. IC 33-33-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, ~~the each~~ judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

- (1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and
- (2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court **for which the personnel were appointed.**

SECTION 5. IC 33-33-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), ~~the each~~ Dearborn superior court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 6. IC 33-33-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The~~ **Each** Dearborn superior court has a standard small claims and misdemeanor division.

SECTION 7. IC 33-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court two~~ **(2) courts** of record to be known as the DeKalb superior court **No. 1 and the DeKalb superior court No. 2.**

(b) ~~The~~ **Each** DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of ~~the each~~ superior court.

SECTION 8. IC 33-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** DeKalb superior court has one (1) judge who shall hold sessions in:

- (1) the DeKalb County courthouse in Auburn; or
- (2) other places in the county as the board of county commissioners of DeKalb County may provide.

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SECTION 9. IC 33-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) If:

- (1) the clerk of the circuit court of DeKalb County receives** the transcript of the original papers in a civil action or proceeding ~~received by the clerk of the circuit and superior courts of DeKalb County~~ on a change of venue from another county; ~~contains and~~
(2) the papers described in subdivision (1) contain an order of the court from which venue was changed designating the circuit court or ~~one (1) of the superior court courts~~ as the court to which the case is to be transferred;

the clerk shall file the action or proceeding on the docket of the designated court.

(b) If:

- (1) the clerk of the circuit court of DeKalb County receives** the transcript of the original papers in a civil action or proceeding ~~does on a change of venue from another county; and~~
(2) the papers described in subdivision (1) do not contain an order designating the court to which the case is to be transferred; the clerk shall alternately file each action or proceeding on the docket of the circuit court ~~and or~~ the docket of **one (1) of the superior court courts**, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court **No. 1, and the next must be assigned to the superior court No. 2.**

SECTION 10. IC 33-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The Each~~ DeKalb superior court has the same jurisdiction as the DeKalb circuit court.

SECTION 11. IC 33-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~The Each~~ DeKalb superior court has a standard small claims and misdemeanor division.

SECTION 12. IC 33-33-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~five (5)~~ **six (6)** superior courts of record to be known as the:

- (1) Hamilton superior court No. 1; the**
(2) Hamilton superior court No. 2; the
(3) Hamilton superior court No. 3; the
(4) Hamilton superior court No. 4; and the
(5) Hamilton superior court No. 5; and
(6) Hamilton superior court No. 6.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

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SECTION 13. IC 33-33-29-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The:

- (1) Hamilton superior court No. 4; ~~and the~~
- (2) Hamilton superior court No. 5; ~~and~~
- (3) **Hamilton superior court No. 6;**

~~each~~ have a standard small claims and misdemeanor division.

SECTION 14. IC 33-33-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~three (3)~~ **five (5)** superior courts of record to be known as:

- (1) Hendricks superior court No. 1;
- (2) Hendricks superior court No. 2; ~~and~~
- (3) Hendricks superior court No. 3;
- (4) **Hendricks superior court No. 4; and**
- (5) **Hendricks superior court No. 5.**

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks County comprises the judicial district of each court.

SECTION 15. IC 33-33-32-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the:

- (1) Hendricks circuit court;
- (2) Hendricks superior court No. 1;
- (3) Hendricks superior court No. 2; ~~and~~
- (4) Hendricks superior court No. 3;
- (5) **Hendricks superior court No. 4; and**
- (6) **Hendricks superior court No. 5;**

unless otherwise provided in the order or entry made in ~~such~~ the cause in the county from which ~~such~~ the change of venue was taken, in which case it shall be docketed as provided in the entry or order.

SECTION 16. IC 33-33-34-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There ~~is~~ **are** established ~~a court~~ **four (4) superior courts** of record to be known as the Howard superior court ~~The court consists of two (2) judges each of whom holds office for six (6) years and until the judge's successor is elected and qualified:~~ **No. 1, the Howard superior court No. 2, the Howard superior court No. 3, and the Howard superior court No. 4.**

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(b) Except as otherwise provided in this chapter, each Howard superior court is a standard superior court, as described in IC 33-29-1.

(c) Howard county comprises the judicial circuit of each court.

SECTION 17. IC 33-33-34-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) The Each~~ Howard superior court **has one (1) judge, who** shall hold its sessions in:

- (1) the Howard County courthouse in Kokomo; or
- (2) another convenient and suitable place as the board of county commissioners of Howard County provides.

~~(b) The board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court; with a suitable and convenient jury room and offices for the judge and the official court reporter; and the county council shall meet and appropriate all necessary funds:~~

SECTION 18. IC 33-33-34-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The judges of the superior court

- ~~(1) may make and adopt rules and regulations for conducting the business of the court.~~
- ~~(2) has all the powers in relation to the attendance of witnesses; the punishment of contempts; and the enforcement of its orders; and~~
- ~~(3) may administer oaths; solemnize marriages; take and certify acknowledgement of deeds; and give all necessary certificates for the authentication of the records and proceedings in the court.~~

SECTION 19. IC 33-33-34-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. The Howard superior court No. 3 has a standard small claims and misdemeanor division.**

SECTION 20. IC 33-33-53-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Monroe County constitutes the tenth judicial circuit.

(b) There are ~~seven (7)~~ **nine (9)** judges of the Monroe circuit court.

SECTION 21. IC 33-33-54-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the:

- (1) Montgomery superior court No. 1; and**
- (2) Montgomery superior court No. 2.**

(b) ~~The Each~~ Montgomery superior court is a standard superior court as described in IC 33-29-1.

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(c) Montgomery County comprises the judicial district of ~~the~~ **each** court.

SECTION 22. IC 33-33-54-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** court has one (1) judge who shall hold sessions in:

- (1) the Montgomery County courthouse in Crawfordsville; or
- (2) other places in the county as the Montgomery County executive may provide.

SECTION 23. IC 33-33-54-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. ~~The~~ **Each** Montgomery superior court has the same jurisdiction as the Montgomery circuit court.

SECTION 24. IC 33-33-54-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. Beginning January 1, 2006, each Montgomery superior court has a standard small claims and misdemeanor division.**

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 33-33-17-5; IC 33-33-34-1; IC 33-33-34-4; IC 33-33-34-5; IC 33-33-34-8; IC 33-33-34-9; IC 33-33-34-10; IC 33-33-34-11; IC 33-33-34-15; IC 33-33-34-16; IC 33-33-34-17; IC 33-33-34.3.

SECTION 26. IC 33-33-54-5 IS REPEALED [EFFECTIVE JANUARY 1, 2006].

SECTION 27. [EFFECTIVE JULY 1, 2005] (a) **Notwithstanding the amendment of IC 33-33-15 by this act, the Dearborn superior court No. 2 is not established until January 1, 2006.**

(b) **The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Dearborn superior court No. 2 established by IC 33-33-15-2, as amended by this act, before January 1, 2006.**

(c) **The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.**

(d) **The initial election of the judge of the Dearborn superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.**

(e) **This SECTION expires January 2, 2007.**

SECTION 28. [EFFECTIVE JULY 1, 2005] (a) **Notwithstanding the amendment of IC 33-33-17 by this act, the DeKalb superior court No. 2 is not established until January 1, 2006.**

(b) **The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the DeKalb superior court No. 2 added**

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by IC 33-33-17-2, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the DeKalb superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) Notwithstanding the repeal of IC 33-33-17-5 by this act, the part-time small claims referee appointed under IC 33-33-17-5 shall continue to assist the DeKalb superior court in the exercise of its small claims jurisdiction until December 31, 2005.

(f) This SECTION expires January 2, 2008.

SECTION 29. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-29-2, as amended by this act, the Hamilton superior court No. 6 is not established until January 1, 2007.

(b) Notwithstanding IC 33-33-29-8, as amended by this act, the Hamilton superior court No. 6 does not have a standard small claims and misdemeanor division until January 1, 2007.

(c) The initial election of the judge of the Hamilton superior court No. 6 established in IC 33-33-29-2, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(d) This SECTION expires January 2, 2007.

SECTION 30. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-32-2 and IC 33-33-32-5, both as amended by this act, the:

(1) Hendricks superior court No. 4; and

(2) Hendricks superior court No. 5;

as added by this act, are not established until January 1, 2007.

(b) The initial election of the judges of the:

(1) Hendricks superior court No. 4; and

(2) Hendricks superior court No. 5;

added by IC 33-33-32-2, as amended by this act, is the general election on November 7, 2006. The terms of the two (2) judges initially elected under this subsection begin January 1, 2007.

(c) This SECTION expires January 2, 2007.

SECTION 31. [EFFECTIVE JULY 1, 2005] (a) The judges of the:

(1) Hendricks superior court No. 1;

(2) Hendricks superior court No. 2;

(3) Hendricks superior court No. 3; and

(4) Hendricks circuit court;

may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the courts.

(b) A magistrate appointed under this SECTION continues in

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office until:

- (1) removed by the judges of the courts; or
- (2) January 1, 2007;

whichever occurs first.

(c) This SECTION expires January 2, 2007.

SECTION 32. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-34-3, as amended by this act, the Howard superior court is not expanded to four (4) courts until January 6, 2006.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Howard superior court No. 4 established by IC 33-33-34-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 6, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Howard superior court No. 4, established by IC 33-33-34-3, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) The terms of the judges of Howard superior court No. 1, Howard superior court No. 2, and Howard superior court No. 3 are not affected by the amendment of IC 33-33-34-3 or IC 33-33-34-6 by this act, or by the repeal of IC 33-33-34-4 or 33-33-34.3 by this act.

(f) This SECTION expires January 2, 2007.

SECTION 33. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding the amendment of IC 33-33-54 by this act, the Montgomery superior court No. 2 is not established until January 1, 2006.

(b) As of January 1, 2006, the Montgomery county court is abolished.

(c) Any case pending in the Montgomery county court after the close of business on December 31, 2005, is transferred on January 1, 2006, to the Montgomery superior court No. 2 established by IC 33-33-54-2, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division, established by IC 33-33-54-6, as added by this act, shall be transferred to the standard small claims and misdemeanor division of the Montgomery superior court No. 2 in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in the Montgomery superior court No. 2.

(d) On January 1, 2006, all property and obligations of the Montgomery county court become the property and obligations of

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the Montgomery superior court No. 2.

(e) The initial judge of the Montgomery superior court No. 2 established by IC 33-33-54-2, as amended by this act, shall be the person who is the Montgomery county court judge on December 31, 2005. The term of the initial judge of the Montgomery superior court No. 2 begins January 1, 2006, and ends December 31, 2008. The initial election of a judge for the Montgomery superior court No. 2, established by IC 33-33-54-2, as amended by this act, is the general election on November 4, 2008. The term of the initial elected judge of the Montgomery superior court No. 2 begins January 1, 2009.

(f) This SECTION expires January 2, 2009.

SECTION 34. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-53-1, as amended by this act, the Monroe circuit court is not expanded to:

- (1) eight (8) judges until January 1, 2006, as described in subsection (b); and
- (2) nine (9) judges until January 1, 2008, as described in subsection (c).

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the eighth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2006, and ends December 31, 2006. The initial election of the eighth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act, is the general election on November 7, 2006. The term of the judge initially elected under this subsection begins January 1, 2007.

(c) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the ninth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2008, and ends December 31, 2008. The initial election of the ninth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act, is the general election on November 4, 2008. The term of the judge initially elected under this subsection begins January 1, 2009.

(d) This SECTION expires January 2, 2009.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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